

COLGATE-PALMOLIVE PHILIPPINES, INC., PETITIONER VS. HON. PEDRO M. GIMENEZ AS AUDITOR GENERAL AND ISMAEL MATHAY AS AUDITOR OF THE CENTRAL BANK OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-14787. January 28, 1961

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

The petitioner Colgate-Palmolive Philippines, Inc., is a corporation duly organized and existing under Philippine laws engaged in the manufacture of toilet preparations and household remedies. On several occasions, it imported from abroad various materials such as irish moss extract, sodium benzoate, sodium saccharinate, precipitated calcium carbonate and dicalcium phosphate, for use as stabilizers and flavoring of the dental cream it manufactures. For every importation made of these materials, the petitioner paid to the Central Bank of the Philippines the special excise tax on the foreign exchange used for the payment of the cost, transportation and other charges incident thereto, pursuant to Republic Act No. 601, as amended, commonly known as the Exchange Tax Law.

On March 14, 1956, the petitioner filed with the Central Bank three applications for refund of the 17% special excise tax it had paid in the aggregate sum of P113,343.99. The claim for refund was based on section 2 of Republic Act 601, which provides that "foreign exchange used for the payment of the cost, transportation and/or other charges incident to the importation into the Philippines of * * * stabilizer and flavors * * * shall be refunded to any importer making application therefor, upon satisfactory proof of actual importation under the rules and regulations to be promulgated pursuant to section seven thereof." After the applications were processed by the Officer in-Charge of the Exchange Tax Administration of the Central Bank, that official advised the petitioner that of the total sum of P113,343.99 claimed by it for refund, the amount of P23,958.13 representing the 17% special excise tax on the foreign exchange used to import irish moss extract, sodium benzoate and precipitated calcium carbonate had been approved. The auditor of the Central Bank, however, refused to pass in audit its claims for refund even for the reduced amount fixed by the Officer-in-Charge of the Exchange Tax Administration, on the theory that toothpaste stabilizers and flavors are not exempt under section 2 of the Exchange Tax Law.

Petitioner appealed to the Auditor General, but the latter on December 4, 1958 affirmed the ruling of the auditor of the Central Bank, maintaining that the term "stabilizer and flavors" mentioned in section 2 of the Exchange Tax Law refers only to those used in the preparation or manufacture of food or food products. Not satisfied, the petitioner brought the case to this Court thru the present petition for review.

The decisive issue to be resolved is whether or not the foreign exchange used by petitioner for the importation of dental cream stabilizers and flavors is exempt from the 17% special excise tax imposed by the Exchange Tax Law (Republic Act No. 601) so as to entitle it to refund under section 2 thereof, which reads as follows:

"SEC. 2. The tax collected under the preceding section on foreign exchange used for the payment of the cost, transportation and/or other charges incident to importation into the Philippines of rice, flour, canned milk, cattle and beef, canned fish, soya beans, butter, fat, chocolate, malt syrup, tapioca, stabilizer and flavors, vitamin concentrate, fertilizer poultry feed; textbooks, reference books, and supplementary readers approved by the Board on Textbooks and/or established public or private educational institutions; newsprint imported by or for publishers for use in the publication of books, pamphlets, magazines and newspapers; book paper, book cloth, chip board imported for the printing of supplementary readers (approved by the Board of Textbooks) to be supplied to the Government under contracts perfected before the approval of this Act, the quantity thereof to be certified by the Director of Printing; anesthetics, antibiotics, vitamins, hormones, X-Ray films, Laboratory reagents, biologicals, dental supplies, and pharmaceutical drugs necessary for compounding medicines; medical and hospital supplies listed in the appendix to this Act, in quantities to be certified by the Director of Hospitals as actually needed by the hospitals applying therefor; drugs and medicines listed in the said appendix; and such other drugs and medicine as may be certified by the Secretary of Health from time to time to promote and protect the health of the people of the Philippines shall be refunded to any importer making application therefor, upon satisfactory proof of actual importation under the rules and regulations to be promulgated pursuant to section seven thereof." (*Italic supplied.*)

The ruling of the Auditor General that the term "stabilizer and flavors" as used in the law refers only to those materials actually used in the preparation or manufacture of food and food products is based, apparently, on the principle of statutory construction that "general terms may be restricted by specific words, with the result that the general language will be limited by the specific language which indicates the statute's object and purpose." (Statutory Construction by Crawford, 1940 ed. p. 324-325.) The rule, however, is, in our opinion, applicable only to cases where, except for one general term, all the items in an enumeration belong to or fall under one specific class. In the case at bar, it is true that the term "stabilizer and flavors" is preceded by a number of articles that may be classified as food or food products, but it is likewise true that the other items immediately following it do not belong to the same classification. Thus "fertilizer" and "poultry feed" do not fall under the category of food or food products because they are used in the farming and poultry industries, respectively. "Vitamin concentrate" appears to be more of a medicine than food or food product, for, as a matter of fact, vitamins are among those enumerated in the list of medicines and drugs appearing in the appendix to the law. It should also here be stated that "cattle", which is among those listed preceding the term in question, includes not only those intended for slaughter but also those for breeding purposes. Again, it is noteworthy that under Republic Act 814 amending the above-quoted section of Republic Act No. 601, "industrial starch", which does not always refer to food for human consumption, was added among the items grouped with stabilizer and flavors". Thus, on the basis of the grouping of the articles alone, it cannot validly be maintained that the term "stabilizer and flavors" as used in the above-quoted provision of the Exchange Tax Law refers only to those used in the manufacture of food and food products. This view is supported by the principle "*Ubi lex non distinguit nec nos distinguere debemus*", or "where the law does not distinguish, neither do we distinguish". (*Ligget & Myers Tobacco Company vs. Collector of Internal Revenue*, 101 Phil., 106; 53 Off. Gaz. [15], page 4831). Since the law does not distinguish between "stabilizer and flavors" used in the preparation of food and those used in the manufacture of toothpaste or dental cream, we are not authorized to make any distinction and must construe the words in their general sense. The rule of construction that general and unlimited terms are restrained and limited by particular recitals when used in connection with them, does not require the rejection of general terms entirely. It is intended merely as an aid in ascertaining the intention of the legislature and is to be taken in connection with other rules of construction. (See *Handbook of the Construction and Interpretation of Laws* by Black, p. 215-216, 2nd ed.)

Having arrived at the above conclusion, we deem it now idle to pass upon the other questions raised by the parties.

Wherefore, the decision under review is reversed and the respondents are hereby ordered to audit petitioner's applications for refund which were approved by the Office In-Charge of the Exchange Tax Administration in the total amount of P23,958.13.

Bengzon, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Paredes, and Dizon, JJ., concur.

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